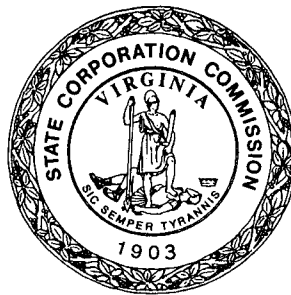


VIRGINIA
COMMERCIAL INSURANCE
CONSUMER'S GUIDE

Prepared by the
COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



This Consumer's Guide should be used for educational purposes only. It is not intended to be an opinion, legal or otherwise, of the State Corporation Commission on the availability of coverage under a specific insurance policy or contract, nor should it be construed as an endorsement of any product, service, person, or organization mentioned in this guide.

1995

Commonwealth of Virginia
State Corporation Commission
Box 1157
Richmond, VA 23218

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COMMERCIAL INSURANCE CONSUMER'S GUIDE

INTRODUCTION

There are many things to think about when doing business today, and among the most important are the amounts and types of insurance to carry in order to protect adequately your financial investment. Without proper protection, your business could be subject to financial ruin because of a property loss or a lawsuit resulting from your business activities. This guide has been developed by the State Corporation Commission's Bureau of Insurance to help you understand how to find the right insurance coverage for your business.

TYPES OF POLICIES

Property and liability insurance (also known as property and casualty insurance) are two types of insurance coverages which provide protection for losses resulting from your business activities.

A. PROPERTY INSURANCE

One of the largest components of your financial investment is the building in which your business is housed and its contents. A general property insurance policy will provide coverage for buildings, contents, equipment, and other real and personal property owned by your business.

Two types of property insurance policies are "**named peril**" and "**all risk**." A "named peril" policy provides protection for specific events such as fire, windstorm, hail, vandalism, or sprinkler leakage. The policy only covers those events named in the policy and is usually less expensive because it provides less coverage.

An "all risk" policy provides protection for any loss by perils not specifically excluded in the policy. The term "all risk" does not mean that all losses will be covered. It only means that the losses that will not be covered are those that are specifically listed as exclusions in the policy.

How Will the Value of My Property Losses be Determined?

Property insurance can either be purchased on a "**replacement cost**" basis or an "**actual cash value**" basis.

Replacement cost is the amount it would take to replace or rebuild your business, or the damaged part of it, with materials of like kind and quality, without deducting anything for depreciation. Replacement cost does not include the value of your land. **Actual cash value** is the amount it would take to repair or replace the damaged or stolen property after deducting for depreciation.

Whether your business is insured at replacement value or actual cash value, it is important to keep track of the value of your property. Inflation tends to increase the replacement cost of your property, while the actual cash value may decrease over time. The value of your property can be determined by using the original construction costs, regional construction costs guidelines, or by hiring a professional appraiser.

If your property contains valuable items such as fine arts, accounts receivable, or valuable papers and records, you may need to buy a policy endorsement to increase your protection to cover specifically those items.

How Much Property Insurance Should I Buy?

Although individual situations vary, most business people should insure their property for at least 80 percent of its value. This percentage, called "**coinsurance**," reflects the minimum amount of insurance you must have before most companies will fully reimburse you for partial losses. Remember, most losses are partial losses. The following example shows how a "**coinsurance penalty**" would work if you did not insure your property for the amount required by your policy.

Let's say you buy replacement cost insurance for a building you think will cost \$100,000 to replace. You insure the building for \$80,000 thinking you have satisfied an 80 percent coinsurance requirement. A fire loss causes \$40,000 in damage to your

building. Your insurer subsequently determines that the replacement cost of your building is \$120,000. Since there was an 80 percent coinsurance clause, the building should have been insured for \$96,000 (80 percent of \$120,000).

To determine how much the company will pay, divide the amount of insurance you purchased (\$80,000) by the amount of insurance you should have purchased (\$96,000). This equals 83 percent.

Even though the total amount of the loss was \$40,000, the insurer will only pay \$33,200 ($.83 \times \$40,000$). In this case, the insurer would have paid the full \$40,000 if the building had been insured for 80 percent of its actual replacement cost.

Check with your agent periodically as well as whenever new property or operations are added to make sure your policy provides adequate coverage. You may be able to add an endorsement to the policy that automatically increases policy limits to keep pace with inflation.

What Other Types of Property Insurance Should I Consider Buying?

Depending on the size of your business and the nature of your business operations, there are many related coverages which you may wish to incorporate into your total insurance package. A brief description of these coverages is shown below.

- **Builders' Risk Coverage** covers buildings in the course of construction. This can be written on a "completed value" form, which provides coverage for the full value of the finished building, or on a "reporting" form, which requires the insured to report the value of the building on a monthly basis. Other forms are also available such as a "contractor's automatic builders' risk" form which provides automatic protection for thirty days on new construction projects.
- **Business Interruption Insurance** covers loss of earnings of the business as a result of damage to or destruction of property. This coverage generally provides

reimbursement for salaries, taxes, rents, and other expenses plus net profits which would have been earned during the period of interruption, up to the limits of the policy.

- **Inland Marine Insurance** is written primarily to cover property in transit, i.e. from warehouse to warehouse, as well as property in the custody of bailees such as dry cleaners, processors, laundries, etc. This type of insurance may also be used to cover such things as sales samples, contractors' equipment, patterns, exhibitions, and live animals.
- **Glass Coverage** may be purchased to provide "all risk" coverage for glass breakage. Insureds with large amounts of plate glass may want to buy this coverage to provide protection for damage otherwise excluded under most commercial property policies.
- **Commercial Crime Coverages** may be purchased to cover your stock and fixtures in the event of burglary and robbery, to protect money and securities, or to protect against counterfeit currency or employee dishonesty.
- **Boiler and Machinery** insurance provides protection for damages caused by the equipment which keeps the business in operation, and basically insures against the three major exclusions found in most property insurance policies: (1) boiler explosion; (2) mechanical breakdown; and (3) electrical arcing. Almost any type of equipment that controls, transmits, or uses mechanical or electrical power can be insured under a boiler and machinery policy.
- **Fidelity Bonds** cover business owners for losses due to dishonest acts by their employees. Bonds can be purchased to cover specific individuals or specific positions, or blanket bonds can be written to cover all employees of the organization.
- **Flood Insurance** covers losses to buildings and their contents due to flooding caused by rising water. Generally, flood insurance is not sold by private insurance companies, and coverage for this peril is not covered under most property insurance policies. This coverage may be available for property other than buildings, however,

under motor truck cargo insurance policies, "all risk" transportation forms, and bailees' customers' policies. The federal government sells insurance for direct flood and flood-related damage including mudslide and erosion under the National Flood Insurance Program (NFIP). Some companies also offer policies through the NFIP in their own names under the "Write Your Own" program. For more information, contact your agent or call the National Flood Insurance Program at 1-800-638-6620.

- **Earthquake Insurance.** Coverage for earthquakes is usually available through an earthquake extension endorsement which, for an additional premium, extends coverage to earthquakes and volcanic eruption. This is generally written with a deductible which is a percentage of the value of the property damaged. Ask your agent about this coverage.
- **Building Ordinance Coverage.** As of July 1, 1993, companies must offer you the option of buying coverage that pays the cost of repairing or replacing property in accordance with local building codes. This allows you to buy back coverage that is otherwise excluded from the policy. Companies may charge an additional premium for this coverage.

If you cannot obtain insurance coverage from a company willing to insure your property, you can apply for coverage through the **Virginia Property Insurance Association (VPIA)**. This association provides property insurance coverage against the perils of fire, lightning, removal, windstorm, hail, explosion, riots, smoke, vandalism and malicious mischief. No theft, glass breakage, or liability coverage is included. This program should be a last resort because the premium is generally higher and the coverage is frequently more limited than in policies sold by private insurers. For further information contact your insurance agent or the VPIA at the following address:

Virginia Property Insurance Association
P. O. Box 6649
3600 W. Broad Street
Suite 669
Richmond, Virginia 23230
(804) 358-0416

B. LIABILITY INSURANCE

A lawsuit could mean a catastrophic loss to your business. Therefore, it is important that you carry enough liability insurance to protect your business from financial loss because of injuries, deaths, or property damage caused by your products, business operations, or employees. A liability policy generally will provide for your legal defense and will pay on your behalf if you are liable, up to the limits of your policy.

Many different types of liability policies are available. Some of the major categories are explained below.

- **Commercial General Liability (CGL).** This policy provides many liability coverages under one contract. Two common types of liability coverages are almost always written on this form. **Premises and Operations** coverage pays bodily injury and property damage claims to members of the public as a result of an accident on your premises or arising out of your operations. **Products and Completed Operations** covers liability arising from the handling, use of, existence of any condition in, or warranty of any goods or products manufactured, sold, handled or distributed by your business after the product is given to others and is away from the business premises. It also provides coverage for claims occurring away from your premises and arising out of operations which have been completed or abandoned.
- **Owners' and Contractors' Protective Liability.** This policy will provide liability coverage for an insured who is sued because of the negligent acts or omissions of an

independent contractor or subcontractor hired by the insured which result in bodily injury or property damage to a third party.

- **Directors' and Officers' Liability Insurance** protects corporate officers and directors against claims brought by shareholders, employees, consumers, clients, or businesses because of wrongful acts committed in the course of their executive duties. This coverage may be needed by directors and officers of both for-profit and non-profit organizations.
- **Surety Bonds** are a financial guarantee of your performance of a specific action. For example, a builder may be required by his client to buy a bond under the terms of a construction contract. If the builder fails to perform as agreed, the client can get a settlement. The bonding company will then seek reimbursement from the builder who is the principal under the surety bond. License and permit bonds are other types of surety bonds that governmental agencies may require businesses to obtain to guarantee their compliance with laws and ordinances and to guarantee that they will perform in good faith.
- **Umbrella Liability Insurance.** This type of policy provides protection over and above the limits of basic liability policies such as commercial general liability policies and commercial automobile policies. To decide whether you need an umbrella policy, think of the most extreme situation that could happen in your business and determine whether your current liability policies would cover this risk. In some cases, umbrella policies provide broader coverage as well as higher limits.
- **Professional Liability Insurance** pays liability claims arising from wrongful acts, errors and omissions, and malpractice by physicians, attorneys, or other professionals. **Errors and omissions insurance** is also available for non-professionals such as corporate directors and officers who may be held liable for losses caused by their errors or oversights.

Be sure to ask how your professional liability policy or your general liability policy pays claims. These policies may be written on either an "**occurrence basis**" or on a "**claims-made basis**." A policy written on an occurrence basis covers incidents that occur during the policy period, regardless of when the claim is reported to the insurance company (even if it is reported after the policy expires). A policy that is written on a claims-made basis covers only those claims reported during the policy period. If a claims-made policy expires, it may be necessary to purchase "tail coverage." Tail coverage covers claims resulting from incidents which occurred while a claims-made policy was in force but which are reported after the policy has expired. Ask your agent about any other changes or conditions in a claims-made policy which may necessitate the purchase of tail coverage.

Are Combination Policies Available to Provide Both Property and Liability Insurance?

As you can see, it would be possible to purchase many separate insurance policies to cover a single business operation. Rather than shopping for each type of insurance you need individually, you may want to buy a multi-peril or package policy. This is a comprehensive policy which can be tailored to suit your business needs and will provide both property and liability protection. For many businesses, it is the most efficient and economical way to buy insurance. One package policy frequently purchased by small to mid-size businesses is the **Businessowners Policy (BOP)**. Another well-known commercial combination policy is the **Commercial Package Policy (CPP)**.

Before you buy, talk to several agents. Be sure to deal with someone licensed to sell insurance in Virginia and experienced in insuring commercial risks. Ask questions. It is important to understand the coverages you will be getting before you have a loss.

C. WORKERS' COMPENSATION INSURANCE

Virginia law requires you as a business owner to purchase certain types of insurance. Almost all employers are required to carry workers' compensation coverage on their employees. You may obtain this coverage through a company licensed to sell workers' compensation in Virginia or through membership in a group self-insurance association licensed in Virginia. You may also be eligible to be certified as an individual self-insurer. For further information on the laws relating to workers' compensation insurance, you may contact:

Virginia Workers' Compensation Commission
1000 DMV Drive
Richmond, Virginia 23220
(804) 367-8600

If you or your agent cannot find a company to carry your workers' compensation insurance, you can apply through your agent for coverage through the **Virginia Workers' Compensation Insurance Plan** which is the assigned risk plan for workers' compensation insurance in Virginia. Your insurance agent can provide you with further information.

D. MOTOR VEHICLE INSURANCE

Virginia has a financial responsibility law which requires you to show that you have insurance or enough money to pay for losses resulting from motor vehicles you own or operate in connection with your business. One way of satisfying Virginia's financial responsibility law is through insurance. If you buy insurance, your policy must contain the following coverages:

- (1) **Bodily Injury and Property Damage Liability.** This coverage provides protection in case you or drivers of your car are responsible for causing injury or death to other people or damage to property of others.

- (2) **Uninsured Motorist.** This provides bodily injury and property damage protection to you if you are in an accident caused by an uninsured motorist or a "hit-and-run" driver. Every policy which offers motor vehicle liability coverage must include this coverage.

Virginia law requires you to carry the following minimum limits of automobile liability applicable to each occurrence:

- **\$25,000** for injury or death of one person;
- **\$50,000** for injury or death of two or more people;
- **\$20,000** for property damage.

Most insurance companies sell an auto policy that contains a **single limit** of bodily injury and property damage liability instead of separate limits. This means that the maximum an insurer will pay per person or per accident is contained in a single limit. This single limit must be at least \$70,000 to satisfy Virginia's financial responsibility law.

As a business owner, you should consider purchasing limits higher than the minimum limits required by law. Also, if you carry passengers or property and are subject to registration with the Department of Motor Vehicles, you will be required to carry more than these minimum limits of liability. You should check with your insurance agent to determine what types of coverage you need to operate commercial vehicles. You should also contact your city, county, and other state government agencies as well as the U.S. Department of Transportation and the Interstate Commerce Commission to check for any other insurance requirements.

If you cannot obtain motor vehicle insurance from any company, you can apply through your agent for coverage through the **Virginia Automobile Insurance Plan (VAIP)** which is Virginia's assigned risk plan for motor vehicle insurance. Your insurance agent can give you more information on the VAIP.

What Type of Motor Vehicle Policy Should I Buy?

Most businesses are eligible for the **Business Auto Policy**. However, certain auto-related businesses such as auto dealers, service stations, and trucking firms are not eligible for this policy. **Garage policies** and **truckers policies** are available to meet the insurance needs of these types of businesses. Ask your insurance agent which policy is best suited for your business.

E. DETERMINING YOUR RATES

How Do Companies Determine My Rates and My Eligibility?

Insurance companies use their own underwriting standards to determine if your business is eligible for insurance and, if so, what price you should pay for the coverage. Depending on the type of business you own or operate, you may be placed in a classification with other similar businesses. You are then charged a premium based on the rate prevailing in the classification in which you are placed. If your business operation is very unique or specialized, the insurance company may have to develop an individual rate that relates specifically to your business.

Many factors go into developing rates. In auto insurance, for example, rates are based on factors such as the type of vehicles driven, territory, expected mileage, usage, and loss experience.

In property insurance, rates are based on such things as territory, construction, occupancy, loss prevention efforts, and fire protection.

In liability insurance, rates are based on a number of factors including territory, type of products manufactured or operations performed, loss history, business experience, and size of the operation.

In some lines of insurance (most typically workers' compensation insurance, general liability insurance, and insurance covering commercial vehicles) companies will determine whether you are paying the proper amount of premium by conducting an audit. Company auditors may ask to examine your records in order to verify your company's payroll, sales, or gross receipts. Your operations may also be reviewed to determine your proper classification. If you have a business auto policy or a truckers policy, an audit may be conducted to verify which vehicles you own or operate and how your vehicles are used. Your policy's original estimated premium may then be adjusted and, depending on the amount of the estimated premium deposited, the company will either collect an additional premium or make an appropriate refund.

F. ALTERNATIVE INSURANCE MARKETS

Are There Any Other Options Available If I Do Not Purchase Insurance From a Company Licensed in Virginia?

Several alternatives exist if you choose not to buy insurance from an insurance company licensed in Virginia. You can self-fund, become a member of a group self-insurance pool, join a risk retention or purchasing group, or purchase coverage through a surplus lines carrier. These alternatives are explained below. Remember that if you do not buy from a company licensed in Virginia, you will not be afforded the same protections under Virginia law that are afforded to policyholders of licensed insurers, such as coverage under the Virginia Property and Casualty Insurance Guaranty Association in the event your insurer becomes insolvent.

Self-Funding

Instead of paying an insurance company to assume your risk, you may retain the risk by periodically setting aside money to pay damages or by paying damages with current operating revenue. This is called self-funding. The decision to self-fund should be made carefully. Most small businesses will not have the needed resources to fund and manage a self-funded program properly. Moreover, you will probably have to hire an administrator to manage your self-funded program properly.

Group Self-Insurance Pools

Virginia law allows group self-insurance pools to be established for municipalities, underground storage tanks, aboveground storage tanks, and businesses that want to pool their liabilities to cover their workers' compensation risks. The State Corporation Commission regulates these entities and can tell you if a particular group self-insurance pool is licensed to do business in Virginia.

Risk Retention Groups and Purchasing Groups

Federal law allows for the formation of risk retention groups and purchasing groups for the purpose of increasing the availability of commercial liability insurance. A risk retention group must be chartered and licensed as an insurance company in one state and its members must engage in similar or common businesses or activities. A purchasing group is composed of members which engage in similar or common businesses or activities and which buy insurance as a group rather than as individuals. Risk retention and purchasing groups may provide liability insurance at lower prices than you could find elsewhere. However, depending on where these groups are located or chartered, they may be exempt from many state insurance laws, and you may not receive all of the protections afforded by Virginia insurance laws.

Surplus Lines Carriers

Surplus lines carriers are unlicensed companies that provide coverage for hard-to-place risks. Surplus lines carriers must be approved in Virginia and must meet certain minimum capital and surplus requirements. However, these insurers do not have to adhere to the rate and policy form requirements stipulated in Virginia insurance laws. Surplus lines coverage must be placed through a licensed surplus lines broker.

G. PROPERTY AND CASUALTY GUARANTY ASSOCIATION

Will Coverage Be Provided by the Virginia Property and Casualty Insurance Guaranty Association If My Insurer Becomes Insolvent?

It is important to consider whether your claims will be paid in the event your insurer becomes insolvent. The Virginia Property and Casualty Insurance Guaranty Association acts as a "safety net" if an insurer is declared insolvent and is unable to pay claims. Only insurance companies licensed in Virginia participate in the Virginia Property and Casualty Insurance Guaranty Association. Coverage under the guaranty fund is not always available as illustrated below. Coverage is **not** available under the Virginia Property and Casualty Insurance Guaranty Association if:

- you have self-insured your risks;
- you have insured your risks through a group self-insurance pool;
- you have insured your risks through a risk retention group;
- you have purchased insurance from a surplus lines carrier; or
- you have purchased insurance from any other type of company not licensed in Virginia.

Also, coverage is **not** available under the Virginia Property and Casualty Insurance Guaranty Association for certain lines of property and casualty insurance including title insurance, fidelity and surety insurance, credit and credit involuntary unemployment insurance, mortgage guaranty insurance and other forms of insurance offering protection against investment risks, as well as insurance of vessels or craft used primarily in a trade or business, their cargoes, and marine builders' risk and marine protection and indemnity.

H. SHOPPING TIPS

- **Shop Around.** Ask several companies for information on coverage and premiums. If you're comparing premiums, be sure to ask each company for the same information, i.e. limits and coverages, in order to make a proper comparison between companies. Then select the policy that best meets your over-all needs. If you decide to change companies, make sure the new company accepts your application before you cancel your current policy.
- **Check Agents and Companies.** Make sure both the agent and the insurance company you are dealing with are licensed in Virginia to sell property and casualty insurance. If the insurer is a surplus lines carrier, make sure it is approved in Virginia. If you have a question about a company or agent, call the Bureau of Insurance.
- **Keep Good Records.** An inventory of your business's contents, including original costs, is the best way to ensure your ability to make an accurate claim to your insurance company. Give a duplicate list to your attorney or accountant, or keep it in a safe deposit box.
- **Exclusions.** Make sure you know what types of events or perils are not covered by the policy you are considering. Then you can decide whether to buy additional coverage in the form of an endorsement for excluded events which are likely to occur in your type of business.
- **Loss Prevention.** Many companies offer discounts if you practice good risk management and install protection devices such as a security system, smoke detectors, fire alarms, and sprinkler systems. You may also want to conduct safety programs or campaigns for your employees. Ask your agent if the company writing your insurance policy offers help for policyholders who want to identify ways to minimize insurance claims.

- **Consider a Higher Deductible.** You can reduce your premium by raising the deductible on your policy. How high your deductible should be depends on what you can afford to pay out of your own pocket if you have a loss. Make sure your deductible is high enough to reduce premiums, but not so high that losses can't be paid.
- **Don't Underinsure.** An inexpensive policy may not provide enough protection. It's important that you determine how much protection you need and insure your property for at least 80 percent of its value or the amount your insurance company requires.
- **Notices.** Companies that write liability insurance and motor vehicle insurance must give businesses 45 days' advance notice of cancellations, non-renewals, certain reductions in coverage, and rate increases greater than 25%. Fifteen days' notice must be given for cancellations due to non-payment of premium.

In addition, the company must give you notice in writing stating the reason for its action. The notice must also tell you that you have a legal right to appeal to the Insurance Commissioner and, in the case of a motor vehicle insurance policy, tell you that you may obtain insurance through another insurer or through the Virginia Automobile Insurance Plan.

Also, insurers may not cancel or non-renew motor vehicle insurance policies solely because of lack of supporting business or lack of the potential for acquiring such business.

I. INSURANCE COMPLAINTS

What Should I Do If I Have a Problem?

(1) Contact your Agent or Company

If you believe your insurance company has improperly cancelled or non-renewed your policy or has refused to pay all or part of a valid claim, you have a right to question and complain. Sometimes a mistake has been made and it will be corrected if an inquiry is made. **A complaint by letter is best.** Keep a copy of your letter. **If you decide to complain by telephone**, keep a written record of:

- The date and time of your call
- The name of the person you talked to
- What was said during the call

(2) Seek help from the Bureau of Insurance

If you do not receive a prompt, courteous and satisfactory response, you may need to get help to resolve your problem.

The State Corporation Commission's **Bureau of Insurance** provides free professional information and complaint services to all Virginia residents.

To use these services you can:

- **Call (804) 371-9185** if you live in Richmond.
- **Call 1-800-552-7945**, the **toll-free** Hot-Line Number if you live in Virginia outside of Richmond.

- Consumers who are hearing or speech impaired can reach the Bureau through the Telecommunications Device for the Deaf (TDD) at **(804) 371-9206**.
- **Visit the Bureau of Insurance**
Tyler Building, 5th Floor
1300 E. Main Street
Richmond, Virginia
- **Use the form letter in this booklet and mail it to:**
State Corporation Commission
Bureau of Insurance
Box 1157
Richmond, Virginia 23218

The Bureau of Insurance will:

- Thoroughly investigate your complaint
- See that you get a clear response to your questions
- Cut through red tape
- Correct misunderstandings

But the Bureau cannot:

- Force a favorable action on your complaint if it is not supported by facts and law
- Provide legal services that are sometimes required to settle complicated problems.

If the Bureau is unable to resolve your problem, we will tell you why. If the law and facts are on your side, we will try to see that your rights are protected and that your complaint is resolved in a satisfactory manner.

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
BOX 1157
Richmond, VA 23218**

I wish to file a complaint: (Please print)

1. My name _____
Telephone No. Home _____ Work _____
Mailing address _____

(Street)

(City) (State) (Zip)
2. Name of insured (if same, indicate same) _____
Mailing address _____

(Street)

(City) (State) (Zip)
3. Who is complaint against? _____
(Name of Company, Broker, Agent or Adjuster)
Give address (if known) _____

(City) (State) (Zip)
4. My policy, certificate, or ID number _____

5. a. Claim number _____

b. Other parties involved _____

c. Their insurance companies _____

d. Policy or claim number (if known) _____

6. Date of loss _____

7. Details of my complaint (Please type, print or write clearly)

I am enclosing copies of any correspondence or other papers relating to this matter which I feel would help your investigation of the complaint. I understand that a copy of this form and any or all the enclosed information may be sent to the party complained against.

(Date)

(Signature)